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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,207	11/21/2003	Brian Lange	PPCI-32176	1965

22202 7590 05/05/2005

WHYTE HIRSCHBOECK DUDEK S C  
555 EAST WELLS STREET  
SUITE 1900  
MILWAUKEE, WI 53202

EXAMINER
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ABBOTT, YVONNE RENEE

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/719,207

Applicant(s)

LANGE ET AL

Examiner

Yvonne R. Abbott

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-75 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-75 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-41, 45-75 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (5,730,021). Johnson discloses an air hammer bit capable of use as a vibrating livestock prod or system for motivating animal movement comprising a pneumatic scribe having a vibratory stylus (42) capable of being used to contact a skin of an animal; a selectively actable pneumatic trigger (32); and an elongated substantially hollow shaft (30) connecting the trigger to the scribe; wherein the scribe is proximate a first distal end of the shaft and the trigger is proximate a second distal end of the shaft; wherein the stylus is pneumatically actuated; wherein the shaft provides a pneumatic passageway and permits pressurized or compressed gas to flow between/from the trigger and the scribe in order to vibrate the stylus; and wherein the trigger provides a pneumatic passageway and permits pressurized or compressed gas to flow between/from the trigger and the scribe in order to vibrate the stylus; and a remote pneumatic compressed air source or compressor is connected to the prod via hose (26).

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3. Claims 1-41, 43, 45-75 are rejected under 35 U.S.C. 102(b) as being anticipated by Ducker (5,566,858). Ducker discloses a compressed air gun capable of use as a vibrating livestock prod or system for motivating animal movement comprising a pneumatic scribe having a vibratory stylus (130, 212, 214, 216, 220) capable of being used to contact a skin of an animal; a selectively actable pneumatic trigger (18); and an elongated substantially hollow shaft (14) connecting the trigger to the scribe; wherein the scribe is proximate a first distal end of the shaft and the trigger is proximate a second distal end of the shaft; wherein the stylus is pneumatically actuated; wherein the shaft provides a pneumatic passageway and permits pressurized or compressed gas to flow between/from the trigger and the scribe in order to vibrate the stylus; and wherein the trigger provides a pneumatic passageway and permits pressurized or compressed gas to flow between/from the trigger and the scribe in order to vibrate the stylus; and a remote pneumatic compressed air source or portable compressor tank (T) is connected to the prod via hose (28).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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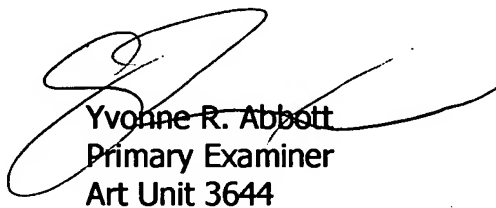
5. Claims 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson ('021) in view of Burrenga (4,077,747). Although Johnson discloses a remote source of compressed air, it is not disclosed that the compressor is from a slaughterhouse, and has one or more wheels for transport. Burrenga teaches a portable air compressor comprising a pump and pump drive unit mounted on a wheel-supported base. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the source of compressed air for the Johnson vibratory system be portable and on wheels for convenient and rapid accessibility to the air, or in case maintenance, quick adjustment is required. With respect to the compressor being from a slaughterhouse as recited in claim 42, this is considered to be obvious lacking disclosed criticality since the compressor can be from or located anywhere, and it has no relevance to the claimed structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (571) 272-6896. The examiner can normally be reached on Mon-Thurs 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott  
Primary Examiner  
Art Unit 3644

yra